

AMENDED IN ASSEMBLY JANUARY 14, 2010

AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 535

Introduced by Assembly Member Ammiano

February 25, 2009

An act to add Sections ~~1418.92 and 102336~~ *102336 and 127286* to the Health and Safety Code, and to amend ~~Section~~ *Sections 11174.5 and 11174.8* of the Penal Code, relating to elder death review teams.

LEGISLATIVE COUNSEL'S DIGEST

AB 535, as amended, Ammiano. Elder death review teams: information requests.

~~This bill would require a long-term health care facility to report the death of a resident of the facility who is 65 years of age or older to the elder death review team of the county in which the death occurred within 24 hours of the death. The bill would make violation of this provision a class "B" violation. Because this bill would create a new crime, it would impose a state-mandated local program.~~

Existing law allows a county to establish an interagency elder death review team to assist local agencies in identifying and reviewing suspicious elder deaths. Under existing law, the team may request specified information for its review, subject to prescribed confidentiality requirements.

This bill would *make conforming changes to refer to elder death review teams and would allow* ~~the~~ *an* elder death review team to request

and obtain copies of certificates of death from the local registrar of births and deaths, subject to any fee requirements.

Under existing law, deaths are required to be registered with the local registrar of births and deaths in the district in which the death occurs. Existing law requires the State Department of Public Health to enforce the laws pertaining to vital records, including certificates of death. Existing law requires the department to implement an Internet-based electronic death registration system.

This bill would authorize the chair, cochair, or an agent of the chair or cochair, of a county elder death *review* team to participate in the Internet-based electronic death registration system to access specified information.

~~Under existing law, the State Department of Public Health licenses and regulates health facilities, including long-term health care facilities. The Long-Term Care, Health, Safety, and Security Act of 1973 imposes various requirements on long-term health facilities. Violation of these provisions is punishable through administrative penalties. Willful obstruction of the enforcement of the provisions is a misdemeanor.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Under existing law health facilities, including skilled nursing facilities, are required to file an annual report to the Office of Statewide Health Planning and Development containing prescribed data.~~

~~This bill would require skilled nursing facilities, except for a skilled nursing facility that is a distinct part of a general acute care hospital, also to include within this report specified data on persons who have died in the facility. The bill would require the office to compile and make available this data to a requesting county elder death review team and would allow the office, upon request of the team, to provide additional information, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1418.92 is added to the Health and Safety~~
- 2 ~~Code, to read:~~

1 ~~1418.92. (a) A long-term health care facility shall report the~~
2 ~~death of a resident of the facility who is 65 years of age or older~~
3 ~~to the elder death review team of the county in which the death~~
4 ~~occurred.~~

5 ~~(b) The report required by subdivision (a) shall be made within~~
6 ~~24 hours of the death of the resident and shall contain all of the~~
7 ~~following information:~~

8 ~~(1) Place of death.~~

9 ~~(2) Time of death.~~

10 ~~(3) Gender of decedent.~~

11 ~~(e) Failure to comply with this section shall constitute a class~~
12 ~~“B” violation.~~

13 ~~SEC. 2.~~

14 ~~SECTION 1.~~ Section 102336 is added to the Health and Safety
15 Code, to read:

16 102336. Notwithstanding paragraph (2) of subdivision (b) of
17 Section 11174.8 of the Penal Code, the chair, cochair, or an agent
18 of the chair or cochair *of a county elder death review team* may
19 participate in the Internet-based electronic death registration system
20 established pursuant to Section 102778. Access to the
21 Internet-based electronic death data shall be exclusively for the
22 purpose of obtaining the following information:

23 (a) Place of death.

24 (b) Name, last name followed by first name.

25 (c) Date of death.

26 (d) Cause of death.

27 ~~SEC. 2.~~ Section 127286 is added to the Health and Safety Code,
28 to read:

29 127286. (a) A skilled nursing facility, as defined in subdivision
30 (c) of Section 1250, except for a skilled nursing facility that is a
31 distinct part of a general acute care hospital, shall include in the
32 annual report required pursuant to Section 127285 data on persons
33 who have died in the facility, including, but not limited to, the date
34 and time of death, age, and gender.

35 (b) The office shall compile and make available the data
36 reported pursuant to subdivision (a) by county and by facility upon
37 the request of a county interagency elder death team, as established
38 in Section 11174.5 of the Penal Code.

39 (c) The office may also include census and utilization
40 information relating to the facilities, including, but not limited to,

1 *whether the facility offered a hospice program or another*
2 *specialized program, such as those for Alzheimer's disease.*

3 *SEC. 3. Section 11174.5 of the Penal Code is amended to read:*

4 11174.5. (a) Each county may establish an interagency elder
5 death review team to assist local agencies in identifying and
6 reviewing suspicious elder deaths and facilitating communication
7 among persons who perform autopsies and the various persons
8 and agencies involved in elder abuse or neglect cases.

9 (b) Each county may develop a protocol that may be used as a
10 guideline by persons performing autopsies on elder adults to assist
11 coroners and other persons who perform autopsies in the
12 identification of elder abuse, in the determination of whether elder
13 abuse or neglect contributed to death or whether elder abuse or
14 neglect had occurred prior to but was not the actual cause of death,
15 and in the proper written reporting procedures for elder abuse or
16 neglect, including the designation of the cause and mode of death.

17 ~~SEC. 3.~~

18 *SEC. 4. Section 11174.8 of the Penal Code is amended to read:*

19 11174.8. (a) Each organization represented on an elder death
20 review team may share with other members of the team information
21 in its possession concerning the decedent who is the subject of the
22 review or any person who was in contact with the decedent and
23 any other information deemed by the organization to be pertinent
24 to the review. Any information shared by an organization with
25 other members of a team is confidential. The intent of this
26 subdivision is to permit the disclosure to members of the team of
27 any information deemed confidential, privileged, or prohibited
28 from disclosure by any other provision of law.

29 (b) (1) Written and oral information may be disclosed to an
30 elder death review team established pursuant to this section. The
31 team may make a request in writing for the information sought
32 and any person with information of the kind described in paragraph
33 (3) may rely on the request in determining whether information
34 may be disclosed to the team.

35 (2) No individual or agency that has information governed by
36 this subdivision shall be required to disclose information. The
37 intent of this subdivision is to allow the voluntary disclosure of
38 information by the individual or agency that has the information.

39 (3) The following information may be disclosed pursuant to this
40 subdivision:

1 (A) Notwithstanding Section 56.10 of the Civil Code, medical
2 information.

3 (B) Notwithstanding Section 5328 of the Welfare and
4 Institutions Code, mental health information.

5 (C) Notwithstanding Section 15633.5 of the Welfare and
6 Institutions Code, information from elder abuse reports and
7 investigations, except the identity of persons who have made
8 reports, which shall not be disclosed.

9 (D) State summary criminal history information, criminal
10 offender record information, and local summary criminal history
11 information, as defined in Sections 11075, 11105, and 13300.

12 (E) Notwithstanding Section 11163.2, information pertaining
13 to reports by health practitioners of persons suffering from physical
14 injuries inflicted by means of a firearm or of persons suffering
15 physical injury where the injury is a result of assaultive or abusive
16 conduct.

17 (F) Information provided to probation officers in the course of
18 the performance of their duties, including, but not limited to, the
19 duty to prepare reports pursuant to Section 1203.10, as well as the
20 information on which these reports are based.

21 (G) Notwithstanding Section 10825 of the Welfare and
22 Institutions Code, records relating to in-home supportive services,
23 unless disclosure is prohibited by federal law.

24 (H) Electronic data from certificates of death from the local
25 registrar of births and deaths, subject to any fee requirements.

26 (c) Written and oral information may be disclosed under this
27 section notwithstanding Sections 2263, 2918, 4982, and 6068 of
28 the Business and Professions Code, the lawyer-client privilege
29 protected by Article 3 (commencing with Section 950) of Chapter
30 4 of Division 8 of the Evidence Code, the physician-patient
31 privilege protected by Article 6 (commencing with Section 990)
32 of Chapter 4 of Division 8 of the Evidence Code, and the
33 psychotherapist-patient privilege protected by Article 7
34 (commencing with Section 1010) of Chapter 4 of Division 8 of
35 the Evidence Code.

36 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
37 ~~Section 6 of Article XIII B of the California Constitution because~~
38 ~~the only costs that may be incurred by a local agency or school~~
39 ~~district will be incurred because this act creates a new crime or~~
40 ~~infraction, eliminates a crime or infraction, or changes the penalty~~

1 ~~for a crime or infraction, within the meaning of Section 17556 of~~
2 ~~the Government Code, or changes the definition of a crime within~~
3 ~~the meaning of Section 6 of Article XIII B of the California~~
4 ~~Constitution.~~

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